

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	CASE NO: CR-1-02-108
vs.)	
)	
TINA M. SWAIN,)	JUDGE DLOTT
)	
SSN: XXX-XX-6052)	
Defendant,)	
)	
and)	
)	
Select Hotels Group)	
)	
Garnishee.)	

CLERK'S NOTICE OF GARNISHMENT

You are hereby notified that a garnishment of the nonexempt property (including nonexempt disposable earnings) is being taken by the United States of America which has a judgment in Case No. CR-1-02-108 in the United States District Court for the SOUTHERN DISTRICT OF OHIO, WESTERN DIVISION, in the sum of \$19,804.04 plus accrued interest for monies owed the United States. As of June 4, 2007 a balance of \$20,919.04 remains outstanding.

In addition, you are hereby notified that there are exemptions under the law which may protect some of the property from being taken by the Government if Tina M. Swain can show that the exemptions apply. Attached to this Notice is a Claim for Exemption Form which summarizes the major exemptions which apply in most situations in the State of Ohio. Pursuant to 28 U.S.C. §3014, an individual debtor may elect to exempt the following property:

EITHER

1. Property specified under section 522(d) of Title 11 of the United States Code - the types of property you may elect to exempt under 11 U.S.C. § 522(d) are listed on the attached Claim for Exemption Form;

OR, IN THE ALTERNATIVE,

- 2 (A) Any property that is exempt under Federal law (other than the property set forth in paragraph (1) above), or State, or local law, if such law was applicable on the date of filing the Application for Writ of Continuing Garnishment. The applicable law regarding exemptions is the law at the place in which your domicile has been located for 180 days immediately preceding the date of the filing of such application, or for a longer portion of such 180-day period than in any other place. (A list of the property available as an exemption is contained in the attached Claim for Exemption Form); and,
- 2 (B) Any interest in property in which you had, immediately before filing of such application, an interest as a tenant by entirety or joint tenant. If you are electing this type of property, mark the appropriate space on the Claim for Exemption Form.

If you are Tina M. Swain, you have a right to ask the court to return your property to you if you think the property the Government is taking qualifies under one of the specified exemptions or if you think you do not owe the money to the Government that it says you do.

If you are Tina M. Swain, and you want a hearing, you must notify the court within 20 days after receipt of the notice. Your request must be in writing, and either mail it or deliver it in person to the Clerk of the Court at:

Clerk U.S. District Court
U.S. Postoffice & Courthouse, Rm #103
Cincinnati, OH 45202

If you wish, you may request the hearing by checking the appropriate space on the Defendant's Request for Garnishment Hearing form attached to this notice and mailing or delivering your request form to the Clerk of the Court.

You must also send a copy of your request to the government in care of:

Deborah F. Sanders
Assistant United States Attorney
Southern District of Ohio
303 Marconi Boulevard, Suite 200
Columbus, Ohio 43215-2401

so that the Government will know that you want a hearing. The hearing will take place within 5 days after the Clerk receives your request, if you ask for it to take place that quickly, or as soon after that as possible.

At the hearing you may explain to the judge why you believe the property (including nonexempt disposable earnings) the Government has taken is exempt or why you do not owe the money to the Government.

If you think you live outside the Federal judicial district in which the court is located, you may request, not later than 20 days after you receive this notice, that this proceeding be transferred by the court to the Federal judicial district in which you reside. You must make your request in writing, and either mail it or deliver it in person to the Clerk of the Court at:

Clerk U.S. District Court
U.S. Postoffice & Courthouse, Rm #103
Cincinnati, OH 45202

You must also send a copy of your request to the Government in care of:

Deborah F. Sanders
Assistant United States Attorney
Southern District of Ohio
303 Marconi Boulevard, Suite 200
Columbus, Ohio 43215-2401

so that the Government will know that you want the proceedings to be transferred.

Be sure to keep a copy of this notice for your own records. If you have any questions about your rights or about this procedure, you should contact a lawyer, an office of public legal assistance, or the Clerk of the Court. The clerk is not permitted to give legal advice, but can refer you to other sources of information.

James Bonini, Clerk

JAMES BONINI, CLERK
United States District Court

6/21/07
Date

Bill Rish
Deputy Clerk

CLAIM FOR EXEMPTION FORM
MAJOR EXEMPTIONS UNDER FEDERAL LAW

I claim that the exemption(s) from garnishment which are **checked** below apply in this case:

- ☐ 1. Social Security benefits and Supplemental Security income (42 U.S.C. § 407).
- ☐ 2. Veterans' benefits (38 U.S.C. § 5301).
- ☐ 2a. Members of armed services (10 U.S.C. § 1440, 38 U.S.C. § 1562).
- ☐ 3. Federal civil service retirement benefits (5 U.S.C. § 8346 and 22 U.S.C. § 4060(c)).
- ☐ 4. Annuities to survivors of federal judges (28 U.S.C. § 376(n)).
- ☐ 5. Longshoremen and Harborworkers Compensation Act (33 U.S.C. § 916).
- ☐ 6. Black lung benefits (30 U.S.C. §§ 931(b)(2)(F) and 932(a)).
- ☐ 6a. Seaman's, master's or fisherman's wages, except for child support or spousal support and maintenance (46 U.S.C.A. §§ 11108(a)-11109(a-c)).

Exemptions listed under 1 through 6 above may not be applicable in child support and alimony cases (42 U.S.C. § 659).

- ☐ 6b. Railroad retirement, pension, unemployment benefits (45 U.S.C. §§ 352(e)).
- ☐ 7. Bankruptcy Code (Title 11, United States Code) which generally provides exemptions for:
 - (a) ☐ \$17,425 in equity in a residence.
 - (b) ☐ \$2,775 in equity in a motor vehicle.
 - (c) ☐ \$1,150 in jewelry.
 - (d) ☐ \$9,300 in personal property. (However, no single item worth more than \$450 can be claimed as exempt.)

- (e) _____ \$1,750 in equity in any implements, professional books, or tools, of the trade of the debtor or the trade of a dependant of the debtor.
- (f) _____ \$925 in property, plus up to \$8,725 of any unused amount of the exemption provided for above.
- (g) _____ Any unmaturred life insurance contract you own, other than credit life insurance.
- (h) _____ The aggregate value, up to \$9,300, of any accrued dividend or interest under, or loan value of, any unmaturred life insurance contract you own, but only if you are the insured or you are a dependant of the insured.
- (i) _____ Professionally prescribed health aids for you or your dependants.
- (j) _____ Unemployment compensation benefits, local public assistance benefits, disability benefits, illness benefits; and alimony, support, and separate maintenance, to the extent these items are reasonably necessary for your support or the support of your dependants.
- (k) _____ A payment under a stock bonus, pension, profit-sharing, annuity, or similar plan or contract on account of illness, disability, death, age, or length of service, to the extent reasonably necessary for your support or the support of your dependants, subject to the limitations set forth at Title 11 United States Code Section 522(d)(10)(E)(i)-(iii).
- (l) _____ Your right to receive, or property that traceable to,
to,
to
or
the
the
- an award under a crime victim's reparation law;
- a payment on account of the wrongful death of an individual of whom you were a dependant, but only the extent reasonably necessary for your support the support of your dependants;
- a payment under a life insurance contract that insured an individual of whom you were a dependant on the date of the insured's death, but only to extent reasonably necessary for your support or support of your dependants
- a payment, not to exceed \$17,425, on account of personal bodily injury suffered by you or by an individual of whom you are a dependant; however, payment for pain and suffering or payment to

compensate actual pecuniary loss are not exempt under this paragraph;
 - a payment in compensation of loss of your future earnings or the future earnings of an individual whom you are, or were, a dependant, but only to extent reasonably necessary for your support of dependants.

_____8. Compensation for war risk hazards (42 U.S.C. § 1717).

MAJOR EXEMPTIONS UNDER STATE LAW

NOTE: The law of the state where you have been domiciled for at least 180 days governs your rights.

NOTE: If you have selected the Bankruptcy Code exemptions (line 7 above), you may not also claim the state law exemptions listed below.

<u>TYPE</u>	<u>STATUTE EXEMPTION</u>	<u>VALUE CLAIMED</u>
_____9. Fraternal Benefit Society Benefits -Exempt before and after payment	-Ohio Rev. Code. Ann. §§2329.66(A) (6) (d) and 3921.128	_____
_____10. Public Assistance -General Assistance and aid to dependent children are exempt	-Ohio Rev. Stat. §§2329.66(A) (9), 5107.12 and 5113.03(A)	_____
_____11. Pensions and Retirement Benefits -Various public employees' retirement systems. In addition, benefits from pension plans qualified for tax exemption and certain non-qualifying plans are exempt. IRA's and Keoughs are exempt when necessary for support.	-Ohio Rev. Stat. §§245.66 and provisions cited is note thereafter, and 2329.66(A) (10)	_____
_____12. Alimony, Support and	-Ohio Rev. Code	_____

-Alimony, maintenance
and child support

-Compensation accrued
in previous 12 months.

-A payment on account of the wrongful death of an individual of whom the person is a dependent to the extent necessary for support is exempt. Up to \$5,000 for personal injury, not including pain and suffering or pecuniary loss, for the person or an individual for whom the person is a dependent, is exempt. Compensation for loss of future earnings, of the person or an individual of whom the person is a dependent, is exempt to the extent necessary for support.

(1)
-If paid weekly,
the greater of 30
times the current
federal minimum wage
of 75% of debtor's
disposable earnings.
If paid biweekly, the
greater of 60 times
the current federal
minimum wage or 75%
of debtor's disposable
earnings. If paid
semi-monthly, the greater
of 65 times the current
federal minimum wage or
75% of debtor's disposable
earnings. If paid monthly,
one hundred thirty times
the federal minimum wage

or 75% of debtor's disposable earnings.

____16. Workers' Compensation -Ohio Rev. Code _____
Ann. §4123.67
-Exempt

____17. Unemployment -Ohio Rev. Code _____
Compensation Ann. §4141.32
-Exempt

The statements made in this claim for exemptions and request for hearing as to exemption entitlement and fair market value of the property designated are made and declared under penalty of perjury that they are true and correct. I hereby request a court hearing to decide the validity of my claims. Notice of the hearing should be given to me by mail at:

(Address) (City/State) (Zip Code)

or telephonically at _____
(Area Code) (Phone Number)

(Debtor's printed/typed name)

(Signature of Debtor) (Date)